

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : David Arsenault Art Unit : 2143
Serial No. : 09/693,840 Examiner : Thomas J. Mauro Jr.
Filed : October 23, 2000 Conf. No. : 8612
Title : PROCESSING SELECTED BROWSER REQUESTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF (37 C.F.R 41.37)

In response to the notification of non-compliant appeal brief dated September 13, 2006 (a copy of which is enclosed), Applicant submits the attached supplemental appeal brief, which includes the evidence appendix and related proceedings appendix. The brief fee has previously been paid and, therefore, no fees are believed to be due at this time. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 10/12/06



Kevin E. Greene
Reg. No. 46,031

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,840	10/23/2000	David Arsenault	06975-063001	8612
26171	7590	09/13/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			PWU, JEFFREY C	
			ART UNIT	PAPER NUMBER
			2143	
DATE MAILED: 09/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)
	09/693,840	ARSENault, DAVID
	Examiner	Art Unit
	Jeffrey C. Pwu	2143

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 28 December 2004 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6. The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. Other (including any explanation in support of the above items):

See attached..



JEFFREY PWU
PRIMARY EXAMINER

Defective Appeal Brief

A review of the file indicates that on December 28, 2004, appellants filed an Appeal Brief under the rules set forth in 37 CFR § 41.37(c). However, the Appeal Brief filed on September 14, 2005, does not fully comply with the new rules under 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(1) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(ix) ***Evidence appendix.*** An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) ***Related proceedings appendix.*** An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

An in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief filed December 28, 2004:

- 1) "Evidence Appendix," as set forth in 37 CFR § 41.37(c)(1)(ix); and
- 2) "Related Proceedings Appendix," as set forth in 37 CFR § 41.37(c)(1)(x).

It is required that a supplemental Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c). For more information on the Board's new rules, please see the web page entitled "More Information on the Rules of Practice Before the BPAI," Final Rule at:

<http://wvw.uspto.gov/web/offices/dcom/bpai/fr2OO4/moreinfo.html>.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 3/5/2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

9/7/06



JEFFREY PWU
PRIMARY EXAMINE

Substitute Form PTO-1449 (Modified)	U.S. Department of Commerce Patent and Trademark Office	Attorney's Docket No. 06975-063001	Application No. 09/693,840
Information Disclosure Statement by Applicant (Use several sheets if necessary)		Applicant David Arsenault	O P E R A T I O N S M A R 8 5 2004 U. S. PATENT & TRADEMARK OFFICE 2153 214
(37 CFR §1.98(b))		Filing Date October 23, 2000	

U.S. Patent Documents							
Examiner Initial	Desig. ID	Document Number	Publication Date	Patentee	Class	Subclass	Filing Date If Appropriate
CJ	AA	5,818,446	10/06/1998	BERTRAM et al.			
	AB						
	AC						
	AD						
	AE						
	AF						MAR 10 2004
	AG						Technology Center 2100
	AH						
	AI						
	AJ						
	AK						

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MAR 10 2004

Foreign Patent Documents or Published Foreign Patent Applications							
Examiner Initial	Desig. ID	Document Number	Publication Date	Country or Patent Office	Class	Subclass	Translation Yes No
	AL						
	AM						
	AN						
	AO						
	AP						

Other Documents (include Author, Title, Date, and Place of Publication)		
Examiner Initial	Desig. ID	Document
	AQ	
	AR	
	AS	
	AT	

Examiner Signature <i>Jay P.</i>	Date Considered 9/4/06
EXAMINER: Initials citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	